

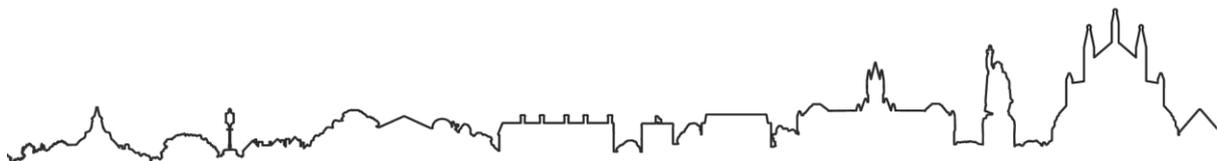
Notification Letter

Enq To: Appeals Officer
Direct Dial: 01962 848 599

17 January 2024

**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL UNDER SECTION 174**

Site Address:	Springbridge Farm Highbridge Road Highbridge Eastleigh Hampshire SO50 6HN
Alleged Breach	<p>Without planning permission:</p> <p>(i) The making of a material change of use of the Land from an agricultural use to a mixed used for:</p> <ul style="list-style-type: none"> a) a retail shop with associated freezer unit (Class E(a) of the Use Classes Order 1987, as amended (UCO)); b) siting and use of a food van/kiosk for the sale of hot and cold food (Class E(b) of the UCO); c) storage, falling within class B8 of the UCO; d) siting of generators to enable the unauthorised mixed use of the Land; e) a campsite; f) agriculture/horticulture; g) (i) siting of two linked caravans/mobile homes for residential purposes shown in the approximate positions marked “X” and “Y” on Plan 1. <p>ALTERNATIVELY:</p> <ul style="list-style-type: none"> (ii) the construction of a dwelling house by the linking of the said two caravans/mobile homes and its use as a dwelling house; h) siting of one caravan used for residential/associated residential purposes in connection with g) above shown in the approximate position marked Z on Plan 1; <p>AND</p> <p>(ii) The carrying out of operational development on the Land namely:</p> <ul style="list-style-type: none"> i) erection of buildings, outbuildings, toilet block, solar panels, and fencing used in connection with the unauthorised mixed use of the Land j) erection of polytunnels and structures associated



	<p>with the use of the Land for horticulture; k) engineering operations to create a septic tank and cesspit(s) for use in connection with the unauthorised mixed use of the Land l) the laying of hard-surfacing to facilitate the unauthorised mixed use of the Land.</p> <p>Please refer to our website to view the actual Enforcement Notice.</p>
Appellant's Name	Colin Blyth
LPA Reference	17/00212/USE
Appeal Reference	APP/L1765/C/23/3334938
Appeal Start Date	04.01.2024

I refer to the above details. An appeal has been made to the Secretary of State against an enforcement notice issued by Winchester City Council on 14.11.2023

The enforcement notice was issued for the following reasons:

The Council considers it expedient to issue this notice because:

It appears to the Local Planning Authority that the above breach of planning control has occurred within the last ten years.

The Land is located in the open countryside outside any defined settlement boundary where development is limited to that which has an essential need to be located in the countryside including development which is necessary for agricultural, horticultural or forestry purposes, and certain types of open recreational uses which require a countryside location.

The formation of hardstanding and creation of a new access together with gates at the entrance to a track, the stationing of the mobile homes for residential purposes with associated link extension under construction, associated hardstanding and fencing and domestic storage, the separate caravan used for residential and recreational purposes, the siting of a toilet block with connected wooden entrance and storage areas and engineering works to include a septic tank, separate cess pits, the track and hardstanding areas, the erection of the solar panel array, the storage of vehicles, trailers, containers/portacabins, a boat, machinery and equipment, and building materials/rubble, polytunnels and housing for horticultural purposes, generators, the container used for retail shop and associated freezer unit, separate food kiosk which are all unrelated to the agricultural use of the Land constitute an intrusive, incongruous, unjustified, sporadic and inappropriate form of development on agricultural land within this countryside location for which there is no agricultural or other justification.

As such, the development is contrary to policies MTRA3 and MTRA4 of the Winchester District Local Plan, Part 1 - Joint Core Strategy, in that it results in inappropriate development within the countryside with no justification.

This unauthorised development and continued use of the Land for the above-mentioned purposes along with the associated operational development is causing substantial harm to the character and appearance of this rural location and the wider open countryside. It is considered to represent an inappropriate and unacceptable form of development in this sensitive countryside location and is harmful to the visual quality of the area. The unauthorised development is inconsistent with the provisions of the development plan as it fails to protect the natural and built environment and fails to meet the criteria set out in Policy DM 11 of the Winchester District Local Plan Part 2. As such it is also contrary to Policy MTRA4 and CP13, and CP20 of the Winchester Local Plan Part 1 – Joint Core Strategy, Policies DM1, DM10, DM11, DM15, DM16, DM17, DM18, DM20 and DM23 of the Winchester Local Plan Part 2, Winchester City Council's Supplementary Planning Document on 'High Quality Places' 2015, and 'Landscape Character Assessment' SPD 2022 and the National Planning Policy Framework 2023.

The aforementioned 'Landscape Character Assessment' for the area seeks to reflect the importance of Winchester's landscape and aims to protect and enhance the strong identity of the landscape whilst accommodating necessary development and change. The character of this area (Lower Itchen Valley) has been strongly influenced by the presence of the river which has resulted in a mixed landscape of pasture, settlement and woodland set within a varying topography. The Land the subject of this Enforcement Notice is surrounded by Sites of Special Scientific Interest in a strongly rural area influenced by the historic water meadows and their associated water mills, locks, carriers and drains from the flood meadow system. It is an area rich in ecology with habitats of national and European ecological importance. Key issues within this landscape character area include the 'suburbanisation and loss of tranquillity' and the 'visual intrusion of detractors such as industrial buildings.' 'Built Form Strategies' for this area include 'conserve the rural character of the landscape and resist development that would result in further suburbanisation of the character area'. The features introduced into this Land are clearly visible and conspicuous from the busy B3335 and from the adjacent and well used Itchen Way National Trail public footpath and detract from the special rural character of the Lower Itchen Valley. Taken together these features have an unacceptable effect on the rural character of the area by means of visual intrusion, the introduction of incongruous features and by impacts on the tranquillity of the environment. It is in conflict with Policy DM23 -Rural Character, DM17(ii) - Site Development Principles and DM16(i) - Site Design criteria.

The development is contrary to Policy CP15 and CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone. As a result, it is considered that the development would result in significant harm to the Special Protection Area (SPA) and the species that it supports, therefore contravening the legal requirements of the Wildlife and Countryside Act 1981, and the Habitat Regulations.

The development is contrary to Policy CP15 and CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate mitigation in regard to increased nutrients (nitrates and phosphates) into the Solent SPAs. As a result, it is considered that the development would result in significant harm to the Special Protection Area (SPA) and the species that it supports, therefore contravening the legal requirements of the Wildlife and Countryside Act 1981, and the Habitat Regulations.

The Land is surrounded by SSSIs, and part of the Land is within the SSSI Impact Risk Zone and hence is extremely sensitive to change including changes to surface water runoff quantities and quality. Any development must demonstrate how the site is draining and that no additional volumes nor increased rates are leaving the site, no such information has been provided. As such the development is contrary to policies CP11 and CP17 of the Winchester District Local Plan Part 1 – Joint Core Strategy, DM5 of the Winchester District Local Plan Part 2, the Strategic Flood Risk Assessment 2007 and the NPPF 2023.

One of the polytunnels is situated in a Flood Risk Zone 3 which fails to accord with Policy CP17 of the Winchester District Local Plan Part 1 – Joint Core Strategy and Policy DM17(iii) of the Winchester District Local Plan Part 2 and Paragraph 167 of the NPPF 2023 in that it increases the risk of flooding through additional surface water accumulating adding to the cumulative impact of flooding in the local area.

The Council does not consider that planning permission should be granted because planning conditions could not overcome these objections to the development.

The enforcement notice requires the following steps to be taken:

- i) Cease the use of the Land as a retail shop, for siting a food van/kiosk for sale of hot and cold food and B8 storage.
- ii) a) Cease the use of the Land for siting caravans/mobile homes for residential or associated recreational purposes;
OR
b) Cease the use of the Land as a dwelling house and the use for siting caravans/mobile homes for residential or associated purposes;
- iii) Cease the use of the Land as a camp site except in accordance with permitted development rights for temporary campsites under The Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending or subsequent legislation.
- iv) Remove from the Land the retail shop and associated freezer container, food van/kiosk, outbuildings, toilet block, solar panels, vehicles, boats, trailers, generators, storage containers, polytunnels and similar structures,

fencing, building materials and rubble and all other paraphernalia brought onto the land to facilitate the unauthorised mixed use.

v) a) Remove from the Land the two caravans/mobile homes and the wooden structure linking the mobile homes, and the separate caravan, (shown marked X,Y and Z on Plan 1);

OR

b) Remove from the Land the dwelling house comprising two linked caravans/mobile homes units, and the separate caravan (shown marked X,Y and Z on Plan 1);

vi) Remove the storage container (including sanitary facilities housed within), wooden structure, and cesspit(s)/septic tank from the Land (as shown in photographs A & B attached); fill in the excavated area and re-level the Land in line with the directly adjacent land.

vii) Dig up and permanently remove from the Land the hardstanding (shown outlined in blue on the attached Plan 1 and tarmac (shown coloured green on the attached Plan1 both of which facilitate the unauthorised mixed use of the Land.

viii) Remove from the Land all materials, rubble, rubbish and debris arising from steps (iv) to (vii)

ix) Reinststate the field gate at the entrance to the Land onto Highbridge Road with a boundary treatment and gate similar in appearance to the one shown in photograph C attached.

x) Reseed the Land to grass.

TIME FOR COMPLIANCE

9 months from the date on which this notice takes effect

The appellant has appealed against the notice on the following grounds:

- a) **That planning permission should be granted for what is alleged in the notice.**
- b) **That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.**
- c) **That there has not been a breach of planning control.**
- d) **That, at the time that the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.**
- e) ~~The notice was not properly served on everyone with an interest in the land.~~

- f) **The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.**
- g) **The time given to comply with the notice is too short.**

The appeal will be determined on the basis of an **inquiry**. The procedure to be followed is set out in the Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002.

If you wish to make comments, you can do so online at <https://acp.planninginspectorate.gov.uk>. If you do not have access to the internet, you can send your comments to:

Faiza Kanwal
The Planning Inspectorate
Room
Temple Quay House
2 The Square
Bristol
BS1 6PN

All representations must be received by 15 February 2024. Any representations submitted after the deadline will not usually be considered and will be returned. The Planning Inspectorate does not acknowledge representations. **All representations must quote the appeal reference APP/L1765/C/23/3334938.**

Please note that any representations you submit to the Planning Inspectorate will be copied to the appellant and this local planning authority and will be considered by the Inspector when determining the appeal.

If you submit comments and then subsequently wish to withdraw them, you should make this request to the Planning Inspectorate by the date above.

The appeal documents are available to view on our website www.winchester.gov.uk using the following link www.winchester.gov.uk/enforcement-appeal
Online access is also available by visiting our offices in Colebrook Street, Winchester SO23 9LJ.

You can get a copy of one of the Planning Inspectorate's "Guide to taking part in enforcement appeals" booklets free of charge from GOV.UK at <https://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal>.

When made, the decision will be published online at <https://acp.planninginspectorate.gov.uk>

Yours faithfully

Julie Pinnock BA (Hons) MTP MRTPI
Service Lead - Built Environment